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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/650,851	08/29/2003	Masayasu Asano	ASA-1151	7404

7590 08/26/2005

MATTINGLY, STANGER & MALUR, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

EXAMINER

NGUYEN, CINDY

ART UNIT	PAPER NUMBER
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2161

DATE MAILED: 08/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/650,851

Applicant(s)

ASANO ET AL

Examiner

Cindy Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2003.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-17 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 29 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

This is in response to application filed on 08/29/03 in which claims 1-17 are presented for examination.

Priority(IDS)

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

The information disclosure statement filed on 11/12/03 and 10/01/03 are in compliance with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609. Because it has been placed in the application file, and the information referred to therein has been considered as to the merits.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Manley et al. (US 20030195903).

Regarding claims 1 and 9, Manley discloses: A storage operation management program and method for operating and managing replication of a data area inside a storage or among a plurality of storages, comprising: a step of accepting a request for generating a replication destination data area for a replication source data area (paragraphs 0057, 0058, Manley); a step of retrieving a data area capable of configuring the replication destination coincident with properties of a data area corresponding to a policy of the replication source data area from existing data areas (paragraphs 0064, 0066, Manley); and a step of instructing said storage to generate a replication pair of said data area (paragraph 0066, Manley).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-8, 10-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Manley et al. (US 20030195903) in view of Hirashima et al. (US 20020059329) (Hirashima).

Regarding claims 2 and 10, all the limitations of these claims have been noted in the rejection of claims 1 and 9 above. However, Manley didn't disclose: which further includes: a

step of instructing said storage to generate a replication pair of said data area by use of a space area when the data area capable of becoming the replication destination coincident with properties of a data area corresponding to the policy of the replication source data area cannot be retrieved from existing data areas. On the other hand, Hirashima discloses: a step of instructing said storage to generate a replication pair of said data area by use of a space area when the data area capable of becoming the replication destination coincident with properties of a data area corresponding to the policy of the replication source data area cannot be retrieved from existing data areas (paragraphs 0055, 0121, Hirashima). Thus, at the time invention was made, it would have been obvious to a person of ordinary skill in the art to include a step of instructing said storage to generate a replication pair of said data area by use of a space area when the data area capable of becoming the replication destination coincident with properties of a data area corresponding to the policy of the replication source data area cannot be retrieved from existing data areas in the system as taught by Hirashima, in the system of Manley. The motivation being enable the system performed the operations with replication request issued by the replication request issuing result in failure and recording of the identifying information results in failure then recovery from the problem and when the replication server restarts the replication, it refers to unchanged false identifying information to issue a replication request.

Regarding claims 3, 11 and 17, Manley/Hirashima discloses: A storage operation management program and method and a managing computer of storages for operating and managing replication of a data area inside a storage or among a plurality of storages, comprising: a step of acquiring information of a designated data area (paragraphs 0144, 0133,

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0185, Hirashima); a step of generating a data area of a replication destination in accordance with information of a data area of a replication source when the data area of the replication destination different from the data area of the replication source is set with said data area being the data area of the replication source (paragraphs 0057, 0058, Manley); a step of selecting the data area of the replication destination in accordance with information of the data area of the replication source (paragraphs 0063, Manley); and a step of managing the data area of the replication destination as the replication destination of the data area of the replication source (paragraphs 0132, 0112, Hirashima).

Regarding claims 4 and 12, all the limitations of these claims have been noted in the rejection of claims 3 and 11 above. In addition, Manley/Hirashima discloses: which further includes: a step of acquiring information of said storage; and a step of judging whether or not said storage can set the data area of the replication source or the data area of the replication destination in accordance with information of the data area and with information of said storage (paragraphs 0144, 0133, 0185, Hirashima).

Regarding claims 5 and 13, all the limitations of these claims have been noted in the rejection of claims 3 and 11 above. In addition, Manley/Hirashima discloses: which further includes: a step of retrieving a route capable of connecting a storage having the data area of the replication source and a storage having the data area of the replication destination (300, 310, 312, fig. 3, Manley); and a step of acquiring information of said route and judging whether or not replication of data of the data area of the replication source to the data area of the replication

destination is possible by use of said route in accordance with information of the data area and information of said route (paragraphs 0122, Manley).

Regarding claims 6 and 14, all the limitations of these claims have been noted in the rejection of claims 3 and 11 above. In addition, Manley/Hirashima discloses: a step of acquiring information of a route for connecting a storage having a data area of a replication source and a storage having a data area of a replication destination when replication is operated with one of said data areas as the data area of the replication source and the other as the data area of the replication destination (paragraph 0122, Manley); a step of confirming information of said route when write occurs to the data area of the replication source (paragraphs 0121, Manley); a step of confirming information of said route in response to a replication start request from the data area of the replication source to the data area of the replication destination (paragraphs 0078, Manley); a step of judging whether or not connection of said route for connecting the data area of the replication source to the data area of the replication destination is made through a different route in response to information of the data area of the replication source and information of a line; and a step of giving the storage an instruction of replication of the data area of the replication source to the data area of the replication destination by connecting said different route (310, 312, 300, Fig. 3, Manley).

Regarding claims 7 and 15, all the limitations of these claims have been noted in the rejection of claims 3 and 11 above. In addition, Manley/Hirashima discloses: a step of judging existence/absence of omission of data stored in a storage area in accordance with information of

the data area of the replication source, the operation condition of the replication and the operation condition of the storage area (paragraphs 0122, Manley); and a step of updating data of the storage area acquiring updating data in accordance with said judgment (paragraphs 0123, Manley).

Regarding claims 8 and 16, all the limitations of these claims have been noted in the rejection of claims 3 and 11 above. In addition, Manley/Hirashima discloses: which further includes: a step of judging whether or not a different data area can be changed as the replication destination as to the data area of the replication destination to the data area of the replication source of said storage (paragraphs 0123, Manley).

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cindy Nguyen whose telephone number is 571-272-4025. The examiner can normally be reached on M-F: 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic can be reached on 571-272-4023. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-872-9306 for After Final communications. Any inquiry of a general nature or relating to the status of this

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application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Cindy Nguyen *cn*

August 11, 2005

Frantz Coby
FRANTZ COBY
PRIMARY EXAMINER